HONOURABLE SRI JUSTICKE R.SUBHASH REDDY

WRIT PETITION No.25829 of 2000

ORDER:

In this Writ Petition, the petitioner seeks Writ of Mandamus to declare the action of the respondents 1 and 2 in taking steps to dispossess him from the land admeasuring 90 cents covered by Sy.No. 361/3,4, situate at Ontithadi village of Kajulu Mandal in East Godavari District as illegal and arbitrary, and, further to declare the action of the second respondent in not granting patta with regard to the above said land as illegal.

One Sri Chodey Ranga Rao of Yendagandi village in Ramachandrapuram Taluk had donated an extent of Ac.3.31 cents of agricultural land in Sy.Nos. 366/3 and 366/4 of Ontithadi village in Kajuluru mandal, to the third respondent-A.P. Bhoodhan Yagna Board, constituted under the A.P. Bhoodan and Gramdan Act, 1965. Initially, the A.P. Bhoodhan Yagna Board had allotted the above said land to four individuals, by name, Billa Subba Rao, Kamoli Appanna, Billa Laxmi and Murugu Dhanraju. However, Murugu Dhanraju, subsequently, died leaving behind his wife. On the ground that the said piece of land allotted to Murugu Dhanraj was sold contrary to and in violation of grant of conditions of patta, proceedings were initiated by the A.P. Bhoodhan Yagna Board for cancellation of allotment, and, after cancellation orders were passed, the said piece of land was re-allotted to the petitioner vide proceedings No. 14842, dated 16-12-1997. It is the case of the petitioner that pursuant to the allotment of the said land by the AP Bhoodhan Yagna Board, he is in actual and physical possession of the land. It is the grievance of the petitioner that due to political reasons, the respondents are trying to evict him from the above said land. It is also his case that in view of the orders dated

16-12-1997 passed by the AP Bhoodhan Yagna Board, it is obligatory on the part of the second respondent to issue patta, which he failed to do so, without any reasons.

Separate counter affidavits are filed by the respondents 2 and3, and 4.

In the counter affidavit filed by the respondents 2 and 3, it is stated that the said piece of land re-allotted to the petitioner by the AP Bhoodhan Yagna Board is in illegal possession and enjoyment of one Sri Veerabhadra Rao, who is the landlord in the village, having more than 18 acres of land. As such, it is stated, a notice was issued in reference No. B.272/96, dated 6-12-2000 to the said Veerabhadra Rao, but the same could not be served on him, as he was not residing in the village. Precisely it is the case of the respondents 1 and 2, that as the petitioner is not actually cultivating the land and is not in possession of the said land, he is not entitle to any relief in the Writ Petition.

In the counter affidavit filed by the third respondent, it is stated that after cancellation of allotment made to the earlier grantee, the said piece of land was allotted to the petitioner. It is stated that the petitioner had filed a representation on 22-12-2000 complaining that the Mandal Revenue Officer is not issuing D-Form patta to him.

Heard the learned Counsel for the petitioner. There is no representation on behalf of the respondents.

From the averments of the petitioner and the counter affidavits filed by the respondents, it is clear that after cancellation of patta granted in favour of the original assignee, the A.P. Bhoodhan Yagna Board, constituted under the A.P. Bhoodan and Gramdan Act, 1965, had passed orders re-allotting the said piece of land, admeasuring 90 cents covered by Sy. 361/3,4 of Ontithadi village, in favour of the

petitioner by proceedings dated 16-12-1997. Under Rule 11 of the A.P.Bhoodhan and Gramdan Rules, 1965, framed in exercise of powers conferred under Section 34(1) of the A.P. Bhoodan and Gramdan Act, 1965, the Tahsildar shall issue patta in Form-IV to the grantee. The person to whom a patta is granted will be entitle to enter upon and take possession of the land. As, admittedly, no patta is issued in favour of the petitioner, his claim that he is in actual and physical possession of the land pursuant to the allotment made by the AP Bhoodhan Yagna Board cannot be accepted. But, however, the fact remains that the allotment made in favour of the petitioner is intact. Though in the counter affidavit filed by the respondents 1 and 2, it is stated that the petitioner is not in possession of the said piece of land and the same is in possession of third parties, but, however, as per Rule 9(7) of the AP Bhoodan and Gramadan Rules, 1965, if the grant is made under a mistake of fact or owing to fraud or misrepresentation, the Board alone is competent to cancel the same. But, however, no such orders are passed as yet. Although in the counter affidavit filed by the respondents 1 and 2, it is stated that the petitioner is not eligible for grant of patta, but the said authority is not competent to say so, in view of the orders passed by the AP Bhoodan Yagna Board. Under the scheme of the A.P. Bhoodan and Gramdan Act 1965 and Rules made thereunder, the Mandal Revenue Officer is not empowered to cancel the allotment made by the AP Bhoodan Yagna Board. In that view of the matter, I dispose of the Writ petition, directing the respondents to consider the case of the petitioner for grant of patta as per Rule 9 of the A.P. Bhoodan and Gramdan Rules, 1965, pursuant to the order dated 16-12-1997 passed by the AP Bhoodan Yagna Board, and, pass appropriate orders within a period of three months from the date of receipt of a copy of this order. Till appropriate orders are passed, the respondents are directed to maintain status quo with regard to possession of the land in question, i.e. 90 cents in Sy.Nos. 361/3,4 of

Ontithadi village. It is also made clear that if there is any misrepresentation or fraud on the part of the petitioner, it is open for the respondents to take appropriate steps in accordance with the Act and Rules made there under.

Subject to the above direction, the Writ Petition is disposed of. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATED:31-8-2007
Msv/Msnr.